

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

No. 5:10-CR-00254-F-1

UNITED STATES OF AMERICA

v.

PERRY JOSEPH ROGERS,

Defendant.

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ORDER

This matter is before the court on Perry Joseph Rogers's Motion to Appoint Counsel [DE-63] and Motion to Amend [DE-64]. In his Motion to Amend, Rogers is attempting to attack his sentence pursuant to *Johnson v. United States*, 135 S. Ct. 2551 (2015). Because Rogers is attacking the validity of his sentence, the appropriate avenue to bring this challenge is by way of a § 2255 motion<sup>1</sup>. To the extent that Rogers seeks to file a § 2255 motion, he must file it on the appropriate form. The Clerk of Court hereby is DIRECTED to send a copy of the appropriate § 2255 form to Rogers. If Rogers elects to pursue a § 2255 motion, he shall have twenty-eight days within which to file his motion on the appropriate § 2255 form provided by the Clerk. Rogers should send the original of the § 2255 form to:

Clerk of Court  
United States District Court, E.D.N.C.  
ATTN: Prisoner Litigation Division  
P.O. Box 25670  
Raleigh, North Carolina 27611

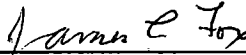
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<sup>1</sup> Title 28, United States Code, Section 2255 states four grounds upon which such relief may be claimed: (1) that the sentence was imposed in violation of the Constitution or laws of the United States; (2) that the court was without jurisdiction to impose such sentence; (3) that the sentence was in excess of the maximum authorized by law; and (4) that the sentence is otherwise subject to collateral attack. 28 U.S.C. § 2255(a).

Rogers asserts a challenge based on *Johnson*, and he previously qualified for appointed counsel. Therefore, Rogers's Motion to Appoint Counsel will be ALLOWED to the extent that the Office of the Federal Public Defender will be appointed to see if Rogers may qualify for post-conviction relief pursuant to Standing Order No. 15-SO-2 (E.D.N.C. Oct. 16, 2015).

SO ORDERED.

This 14 day of April 2016.

  
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JAMES C. FOX  
SENIOR UNITED STATES DISTRICT JUDGE